



LEGAL BRIEF

SMALL CLAIMS COURT

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PREPARED BY

NELLIS LAW CENTER, 4428 England Ave (Bldg 18), Nellis AFB, Nevada 89191-6505
702-652-5407, Appt. Line 702-652-7531

SMALL CLAIMS COURT

This handout provides a basic overview of small claims procedures in the Las Vegas area. Small claims courts are designed to handle simple, informal, speedy, and inexpensive trials without extensive technical proceedings. Each party can act as their own attorney. If you have questions regarding the procedures, you should contact the court clerk's office. If you have questions about whether you should go to court or how to present your case, contact an attorney. For further information, you may reach the Legal Office by calling 652-5407.

If you file the small claim, you are called the plaintiff. The person or business the claim is against is called the defendant. If the defendant then files a claim against the plaintiff, this is called a counterclaim.

The following information was created by the Clark County Courts and is provided here as a courtesy. It can also be accessed online at <http://www.clarkcountycourts.us/lvjc/small-claims.html>

SMALL CLAIM FILING - GENERAL INFORMATION

The Justice Court, Las Vegas Township accepts all civil court proceedings within the Las Vegas Township.

The Justice Court Clerk's Office is located on the 2nd floor of the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada. Business hours are 8:00 am to 4:00 pm, Monday thru Friday, excluding holidays. The information line for the Civil Division is (702) 671-3478.

The information provided here is only general. Please contact the court to discuss each individual customer's situation in more detail.

If you are considering filing a small claim case, you may be interested in taking advantage of a FREE time saving alternative called the NEIGHBORHOOD JUSTICE CENTER. The Center's personalized no cost mediation service may help you resolve your dispute more quickly than through the courts. For information on the Neighborhood Justice Center programs, call 702-455-3898.

SMALL CLAIM FILING GUIDELINES

A Small Claims may be filed in the Las Vegas Justice Court only if:

- The Small Claim is excluded from mediation. The claim will be set for a hearing before a Small Claims Referee once the Defendant(s) have filed Answer. The hearing will be within 45 days of the Answer.
- The claim is for money only and does not exceed \$7,500. If the claim is more than \$7,500, you may wish to contact an attorney. If your claim is for more than \$7,500, you cannot divide the claim by filing two or more separate actions. You may, however, decide not to pursue any amount over \$7,500 and limit your possible recovery to a maximum of \$7,500.
- You are 18 years old or older.
- **Before filing a Small Claims Complaint**, the plaintiff must do the following:
 - Send a demand letter (sample included at the end of this packet), with return receipt requested, to the Defendant. The demand letter must instruct the Defendant to pay the amount due within 10 days of the date that the letter is sent, or the Plaintiff will file a Small Claims case against the Defendant.
 - Wait at least 10 days from the date the demand letter is sent before filing a Small Claims case against the Defendant.
 - Include a copy of the demand letter along with the signed return receipt (as proof of mailing) with the Small Claims Complaint when the Small Claims case is filed against the Defendant.

SMALL CLAIMS FILING FEES

The Filing Fee depends on the amount of money being sued for in the Small Claims Complaint:

For lawsuits seeking recovery of \$.00 to \$1,000.00, the fee is: \$66.00

For lawsuits seeking recovery of \$1,000.01 to \$2,500.00, the fee is: \$86.00

For lawsuits seeking recovery of \$2,500.01 to \$5,000.00, the fee is: \$106.00

For lawsuits seeking recovery of \$5,000.01 to \$7,500.00, the fee is: \$146.00*

Filing fees are due at time of filing. Payment may be made by cash, VISA, MASTERCARD, ATM and Debit cards (will be processed as VISA or MASTERCARD credit cards), personal check, money order, or cashier's check. Personal and/or business checks must be pre-printed with the customer information of name and address. No filing will be accepted without the payment of the appropriate fee.

If the filing party cannot afford the filing fee, the filing party must also prepare a Fee Waiver Application (the formal title of the document is Application to Proceed *In Forma Pauperis*) prior to arriving at the Clerk's Office. The Clerk's Office will receive the documents that the filing

party wants to file and if the Fee Waiver is granted by a Judge, the documents will be filed. If the Fee Waiver is denied, the Clerk's Office will call the filing party to advise that they have 2 business days to pay the fee or the case will be closed.

MANDATORY E-FILING OF ALL CIVIL CASES

All documents to be filed with the Justice Court's Civil Division (except Judge's Orders for signature) are required to be electronically filed (E-Filing). Users may file through Odyssey E-File & Serve at <http://wiznet.wiznet.com/clarknv/> for a charge of \$2.50 for each document. This fee is in addition to any applicable Court filing fees. You must have a credit or debit card. The credit card company charges 8 cents (3% as a service charge) to E-File each document outside of the Regional Justice Center.

Users may E-File documents for free (but will still have to pay any applicable Court filing fees) at the scanning stations located in the Justice Court Clerk's Office on the 2nd floor of the Regional Justice Center, 200 Lewis Avenue in Downtown Las Vegas. Cash, Checks or Money Orders will be accepted for court filing fees at the Justice Court Clerk's Office on the 2nd floor of the Regional Justice Center.

An e-mail address is required to receive a file stamped copy of your document. A free e-mail account may be set up at the Self-Help Center on the 1st floor of the Regional Justice Center, 200 Lewis Avenue in Downtown Las Vegas. You may also establish a free e-mail account through Microsoft at hotmail.com, Yahoo at mail.yahoo.com or Google at mail.google.com.

SMALL CLAIMS FILING

Small Claims Complaint documents can be filed in person at the Justice Court Clerk's Office located on the 2nd floor of the Clark County Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada. Business hours are 8:00 AM to 4:00 PM, Monday thru Friday, excluding holidays.

Electronic filing (E-Filing) is mandatory for all civil case filings, except Orders needing a Judge's signature. Court users may E-File from any location with an internet connection for a fee, or may E-File at the Las Vegas Justice Court without an E-Filing fee. See E-Filing & Service for further information.

All documents should be typed or written clearly. All customers must prepare their own Small Claims Documents. Court staff are not permitted to assist you in preparing your complaint. There is a walk-in Self-Help Center located on the first floor of the Regional Justice Center that provides information and forms for people who are representing themselves in Court. Self-Help services are also available at their website, <http://www.clarkcountycourts.us/self-help.html>. The staff at the Self-Help Center cannot provide legal advice.

After-Hours Filing: *(Effective July 16, 2011, After Hours Filing Will No Longer Be Allowed)*

SERVICE OF SMALL CLAIMS COMPLAINT

The Plaintiff is responsible for proper service of the Small Claims Complaint. The Small Claims Complaint should be served on the Defendant IMMEDIATELY after the complaint is filed. Plaintiffs should be aware that if the Defendant is not served, the Court will not hear the case. The Proof of Service MUST be fully completed and filed with the Court immediately after service.

Service must be performed by a licensed private process server, a disinterested third party, or the Las Vegas Township Constable. The Plaintiff himself may not serve the Small Claims Complaint on the Defendant.

For information regarding the SERVICE of a Small Claims Complaint contact the Las Vegas Township Constable's Office at (702) 455-4099.

Service by Mail:

The Justice Court Judges have determined that the Defendant must be personally served; however, if the Defendant resides in a gated community, a Judge may allow service by certified/registered mail. You must get approval from the Court in advance to serve the Complaint by certified/registered mail.

SMALL CLAIMS ANSWER *(August 31, 2011 and PRIOR)*

In cases filed prior to and on August 31, 2011, Defendants do not have to file an Answer in Small Claims cases.

SMALL CLAIMS ANSWER *(as of September 1, 2011)*

In all Small Claims, all Defendants are required to electronically file (E-File) their Answer with the Justice Court Clerk's Office Civil and mail a copy by United States Mail, with first-class postage, to the Plaintiff(s) within 20 calendar days of service of the Complaint. Your failure to answer (respond to) the Complaint within 20 calendar days may result in the Plaintiff filing a Motion for Default Judgment against you. This means the Judge may grant a Judgment for the Plaintiff based on the claims/allegations in the Complaint without considering your possible defense(s) or explanation(s). You may electronically file your original Answer, for free, at the Justice Court Clerk's Office with this Court, or you may electronically file (\$3.00 charge using credit or debit card) at: <http://wiznet.wiznet.com/clarknv>.

SMALL CLAIMS MEDIATION *(as of September 1, 2011)*

Excluding Small Claims Chapter 604A cases and Small Claims NRS 97A.165 cases

Parties in all Small Claims cases are required to attend mediation. Mediation is an informal dispute settlement process in which a neutral third person called a mediator helps the parties

communicate about the issues and options for resolving differences in order to reach an agreement on all or part of the issues in dispute. The parties keep the right to make decisions about their case; the mediator guides the process but does not decide the case. The mediator assists the parties in identifying issues, encouraging joint problem-solving and exploring settlement alternatives. Please plan on spending 2-3 hours in mediation, although some matters can be mediated in less time. Only decision-makers may participate in mediation. You may bring evidence to share with the other party, but witnesses are not typically invited into the mediation room.

This free mediation service is offered by well-trained volunteers and staff of the Clark County Courts Neighborhood Justice Center. The Neighborhood Justice Center (NJC) was created through legislation approved by the Nevada State Legislature in 1991 to provide citizens, businesses, and organizations an alternative to the Court process for conflict resolution. If you would like more information about the Neighborhood Justice Center, you may wish to review their website: http://www.clarkcountycourts.us/lvjc/NJC/NJC_CMP.htm

If a settlement has been agreed on by all parties, the mediator will complete the Court Mediation Agreement form and have all parties sign the form. The original Agreement will become part of the case file. The Neighborhood Justice Center will give each party a copy and keep a copy.

Cases that were not successfully resolved by mediation will have a Small Claims hearing date set by the Court 10 to 21 days later. Parties will be notified of their Small Claims hearing date by letter.

SMALL CLAIMS FILING PROCESS FOR CASES EXCLUDED FROM MEDIATION

Small Claims cases excluded from mediation will be set for a hearing before a Small Claims Referee once the Defendant(s) have filed Answer. This hearing date will be scheduled within 45 days of the Answer.

Proof of Service must be returned to the Court IMMEDIATELY after service. Plaintiffs should be aware that if the Defendant is not served, the Court will not hear the case.

If the Small Claims Complaint was excluded from mediation on your Small Claims hearing date, you will go to a courtroom along with many other people who have also been scheduled for an appearance that day. First, the clerk will call the roll from the docket to see who is in attendance. Once this is done, a Default Judgment will be entered in cases where the Plaintiff appeared but the Defendant did not appear. If only the Defendant appears, and the Plaintiff does not appear, the case will be dismissed. It is very important to not be late, because if you arrive after the roll call, your case may already have been handled by either a default judgment or a dismissal. If either an order to dismiss or a default judgment is entered because you have failed to appear, or were not present on time when the roll was called, that order is final and IS NOT SUBJECT TO THE FORMAL OBJECTION PROCESS.

IF THE MEDIATED SMALL CLAIMS CASE WAS NOT SUCCESSFULLY RESOLVED

Cases not successfully resolved by mediation will have a Small Claims hearing date set by the Court. The hearing date will be about 10 to 21 days after the mediation date. Parties will be notified of their Small Claims hearing date by letter. You must appear at the new hearing date and time on this summons and order to appear. Failure to appear at the time set may cause your case to be dismissed if you are the plaintiff or having a default judgment entered against you if you are the defendant. An order to dismiss or default judgment for failure to appear at the mediation is not subject to the formal objection process.

SMALL CLAIMS HEARING

Hearings in Small Claims cases are informal and are designed to promote fair and speedy justice. The PLAINTIFF and DEFENDANT may offer evidence, including witnesses, to support their arguments.

IMPORTANT NOTE: At the beginning of each Court session, in the mornings and afternoons, there may be a lengthy line of people waiting to enter the courthouse through security. Be certain to arrive early so that you do not miss your case being called.

When your case goes to hearing before a referee, you and the other party in your case will move to the front of the courtroom. When your case number and names are called, you can present your arguments and tell your stories to the referee. Small Claims cases usually take no more than 10 or 15 minutes. It is very important, therefore, that you plan ahead regarding what you will say. Your story should be well organized and to the point. Do not go off on tangents, include too many details, or be repetitious. Stay calm and polite.

If you are the Plaintiff, you will speak first. As the Plaintiff, it is your burden to prove your case. You should not assume that the Defendant will admit liability, so you must inform the referee of enough facts to convince him or her that you should win. Your opening statement should summarize the nature of your claim and the damages you have suffered as a result of injury, breach of contract, violation of a right, etc.; why the other person is at fault through intentional or negligent behavior; and why you did not contribute substantially to the loss.

If you are the Defendant, you will speak after the Plaintiff. As the Defendant, you may make an opening statement after the Plaintiff is done, or you may make your opening statement after the Plaintiff has presented their entire case and before you offer any evidence, including your own testimony. The Plaintiff has the burden of proving their case. You may decide whether or not to testify or present any witnesses. You may wish to tell the referee why you are not responsible for the claims made by the Plaintiff or present other evidence. Court staff cannot advise you on whether to testify or present evidence.

You may also bring witnesses: either someone who has firsthand knowledge of the facts (example, he saw the accident) or is an expert on the subject (example, the mechanic who examined your car after it was towed). You can also present documents or other evidence for the referee to consider. After both sides have presented their arguments, the referee may ask

questions or allow cross-examination. The referee may decide the case immediately; if the matter is complicated, the referee may take the case "under advisement." This means that the referee will consider the facts, or research questions of law, and will issue a decision in writing at a later time.

If the case is heard by a referee, the referee will prepare written "Findings of Fact, Conclusions of Law, and Recommendations." Either party may object to the referee's written decision by filing a Formal Objection within 5 days after receipt of that decision. Because of this rule, two outcomes are possible:

- A timely objection can be filed, and a Justice of the Peace will review the matter by "trial de novo" (a new trial in which evidence is heard as if the case had never been heard by the referee) before issuing a final judgment, or
- If a timely objection is not filed, the Court will automatically accept the referee's findings, and the referee's decision will become a judgment. At that time, copies of the final judgment can be obtained at the Justice Court Clerk's Office.

PLEASE NOTE THAT THE REFEREE'S DECISION IS NOT ENFORCEABLE IN ANY MANNER UNTIL THE FORMAL OBJECTION PERIOD HAS EXPIRED.

Parties may search for Small Claims Cases. Look for the case by Case Number, or either Plaintiff or Defendant name. Complete instructions on how to search for calendar dates can be found on the Calendar Inquiry Page.

IMPORTANT PLAINTIFF INFORMATION

This is your claim. You are the Plaintiff. The Court will make a decision in the case from the information you provide. The Court does not investigate Defendant addresses, employment, bank accounts, or other information. The Court does not collect money for you. If the Court awards you a Judgment on the claim, you are responsible for locating all information needed to collect on that Judgment and taking any other legal action necessary to collect. Court employees cannot offer you advice on how to collect your judgment.

IMPORTANT INFORMATION FOR PARTIES IN SMALL CLAIMS CASES

Court employees may only explain Court procedures. They are prohibited by Nevada law from offering legal advice. Assistance is provided by the Self-Help Center located on the 1st floor of the Regional Justice Center, 200 Lewis Ave., in Downtown Las Vegas and is open from 8:00 a.m. to 4:00 p.m. Monday through Friday except holidays. They provide instructions and on common Court forms. Their web site is: <http://www.clarkcountycourts.us/CivilSHC/index.html>. If you have specific questions on Small Claims matters, consult an attorney or contact the Clark County Law Library. The Law Library's address is: 309 S. Third St. #400, Las Vegas, Nevada, 89155-7340. The phone number is: (702) 455-4696. Library staff cannot provide legal advice, but they may refer you to sources you may research.

To help individuals understand the Small Claims process, a **FREE SMALL CLAIMS COURT INFORMATIONAL CLASS** is offered by the UNLV Boyd School of Law, Clark County Legal

Services, and Nevada Legal Services. The classes are provided in both English and Spanish. For class information or to register, call 702-386-1070, Ext. 155.

Finally, it is the parties' responsibility to understand the purpose and role of the Small Claims process. The Court does not accept liability for the actions or decisions made by the parties in Small Claims proceedings.

COURT FORMS PAGE

Sample filing documents are available at: <http://www.clarkcountycourts.us/lvjc/court-forms.html>

For more information regarding small claims court, visit the Clark County Courts homepage:
www.clarkcountycourt.us

Or visit the Clark County Court's Small Claims homepage:
<http://www.clarkcountycourts.us/lvjc/small-claims.html#SmallClaimsForms#SmallClaimsForms>

THE INFORMATION CONTAINED IN THIS PAMPHLET IS OF A GENERAL NATURE AND IS PROVIDED FOR YOUR ASSISTANCE AND CONVENIENCE. IT IS NOT INTENDED AS LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. IF YOU HAVE ANY QUESTIONS AS TO HOW THE LAW IN THIS AREA AFFECTS YOU OR YOUR LEGAL RIGHTS, CONTACT A CIVILIAN ATTORNEY OR THE NELLIS AIR FORCE BASE LEGAL OFFICE FOR AN APPOINTMENT WITH A LICENSED ATTORNEY.

JUSTICE COURTS

Las Vegas Township
Clark County Courthouse
200 South Third Street, Second Floor
Las Vegas, Nevada
Phone: 702-671-3116

Clerk's Office Hours
Mon - Fri 0800-1600

North Las Vegas Township
2428 Martin Luther King Blvd, Bldg A
North Las Vegas, Nevada
Phone: 702-455-7801

Clerk's Office Hours
Mon - Fri 0715-1745

Henderson Township
243 Water Street
Henderson, Nevada
Phone: 702-267-1400

Clerk's Office Hours
Mon - Thurs 0730-1730

BUSINESS LICENSE DEPARTMENTS

Clark County:
Bridger Building
333 South Sixth Street
Las Vegas, Nevada
Phone: 702-455-4252

Las Vegas City:
City Hall
495 S. Main St
Las Vegas, Nevada
Phone: 702-229-6011

North Las Vegas City:
City Hall
2250 Las Vegas Blvd North
North Las Vegas, Nevada
Phone: 702-633-1520

Henderson City:
City Hall
243 Water Street
Henderson, Nevada
Phone: 702-267-2323

OTHER RESOURCES

- Neighborhood Justice Center, 702-455-3898, negotiates/mediates small claims disputes
- Nevada Legal Services, 702-386-1070, legal advice for low income citizens
- Senior Citizens Law Project, 702-229-6596, legal assistance to Nevada residents over 60
- Office of Attorney General Consumer Protection Office, 702-486-3420, helps in consumer credit and fraud cases